

Applicant : Sweet et al.  
Atty Dkt. : 00131-000100000  
Issued : n/a  
Serial No. : 09/930,029  
Filed : 08/14/2001  
Page : Page 15 of 26

REMARKS

Applicants wish to thank the Examiner for meeting and discussing this case March 9, 2009.

In light of our discussion, Applicants have amended the claims to better clarify aspects of the present invention.

In the Office Action mailed October 10, 2008, the Examiner objected to Claims 66 and 67 as duplicative. Accordingly, Claim 67 was canceled in order to address this informality and not to overcome any cited art.

Further, the Examiner rejected Claims 4-6, 15-22, 57, 58, and 63 under 35 USC 112, first paragraph as failing the written description requirement. In particular, the Examiner asserts that “Claim 4 recites in the final limitation that the working key will allow the network user to ‘decrypt other than the selected portions of the encrypted object’” and that there “is no basis in the specification for this ‘other than’ portion of the claim.” (Office Action, page 3, paragraph 1) Applicants submit this language was a typographical informality and have removed ‘other than’ from the respective claim 4 and claim 63. Withdrawal of the rejection is respectfully requested.

Claims 52-58 were rejected under 35 USC 101 as directed towards non-statutory subject matter due to a lack of physical components. Applicants have revised Claim 52 to include physical

Applicant	:	Sweet et al.
Atty Dkt.	:	00131-000100000
Issued :	:	n/a
Serial No.	:	09/930,029
Filed	:	08/14/2001
Page	:	Page 16 of 26

components of “at least one processor associated with the system” and address this concern. No new matter has been added and withdrawal of this rejection is respectfully requested.

Regarding substantive rejections, the Examiner rejected Claim 1-20, 52-57 and 59-67 under 35 USC 103(a) in view of Scheidt (US Pat. 6,490,680) in view of He (US Pat. 6,088,451) and Shanton (US Pat. 5,680,452). The Examiner broadly referenced several portions of Scheidt with respect to Claim 1 yet admitted that Scheidt does not operate by “securely transmitting the access permission security profile to the network user over the network wherein the ephemeral cryptographic characteristic allows the network user in receipt of the access permission security profile to perform cryptographic operations for a predetermined period of time” as recited in Claim 1. Unfortunately, Scheidt alone or in combination with the He and/or Shanton do not teach or even suggest these aspects of the invention as claimed. For at least this reason, the Examiner has failed to establish a prima facie case for rejecting Claim 1. Under MPEP §2143 Basic Requirements of a Prima Facie Case of Obviousness specifies:

“To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)”

Applicant : Sweet et al.  
Atty Dkt. : 00131-000100000  
Issued : n/a  
Serial No. : 09/930,029  
Filed : 08/14/2001  
Page : Page 17 of 26

Accordingly, the Applicants respectfully requests that the Examiner withdraw the rejection under 35 USC 103(a) for failing to teach or suggest each and every claim limitation.

First, it is not clear that Scheidt or other cited references teach or suggest any of the limitations in Claim 1. For example, Scheidt fails to disclose “receiving a request for an access permission security profile on behalf of a network user” as recited in claim 1. Contrary to the Examiner’s assertion, no where does Scheidt indicate that a network user makes any requests for the access permission security profile. Instead, Scheidt insists that either a smart card (Col. 11, lines 24-30) or a super card (Col. 11, lines 65-67; Col. 12, lines 1-11) should be used store and hold this information and be directly connected to a workstation (i.e., not accessed over a network). There is no request for the access permission security profile since it is already stored in the smart card attached directly to the workstation (Col. 5, lines 65-67; Col. 6, lines 1-6; Col. 10, lines 28-42).

Moreover, Scheidt suggests and therefore teaches away from using anything but a smart card or similar storage medium. Specifically, Scheidt extolls the virtue of centralizing more tasks to the super card rather than less. It is the teachings, suggestions and belief of Scheidt that placing more functions on the smart card will inherently increase the overall security of the CKM system because “local processing within the card increases the workload of an adversary who is trying to snoop the

Applicant : Sweet et al.  
Atty Dkt. : 00131-000100000  
Issued : n/a  
Serial No. : 09/930,029  
Filed : 08/14/2001  
Page : Page 18 of 26

internal workings" of CKM (Col. 12, lines 1-11). In fact, Scheidt neither recognizes or mentions any of the pitfalls of requiring a physical smart card to perform CKM hence there is clearly no motivation to eliminate this aspect of Scheidt or combine with any other approach.

For example, Scheidt intentionally requires that the card having the credentials be handed to the user directly as part of a security measure. (Col. 9, lines 60-63) Indeed, the additional act of reissuing new credentials must also occur by requiring a manual update of the smart card or other storage device back with an administrator. (Col. 10, 14-19)

Scheidt could also not possibly teach or suggest "creating the access permission security profile ..... to form a cryptographic key for enabling the network user to decrypt selected portions of an encrypted object when one or more groups associated with the encrypted object match the network user's membership in one or more groups within the domain and to encrypt selected portions of a plaintext object to be accessed by other network user's when the other network user's membership in one or more groups within the domain also match the one or more groups associated with the selected portions of the plaintext object being encrypted" as recited in Claim 1. First, Scheidt assumes the smart card already has the access permission security profile hence there is no reason to then create it on demand since "the Credential Manager will initialize a smart card with that user's ID" and the "[the] card is then given to the user."(Col. 9, lines 39-43). In distinct

Applicant : Sweet et al.  
Atty Dkt. : 00131-000100000  
Issued : n/a  
Serial No. : 09/930,029  
Filed : 08/14/2001  
Page : Page 19 of 26

comparison, the access permission security profile in Scheidt is created in advance and not on demand as recited in Claim 1.

Further, Scheidt does not teach or suggest “securely transmitting the access permission security profile to the network user over the network” as recited in claim 1. By design, Scheidt stores the access permission security profile on the smart card or super card in advance and then gives the smart card to the user. (Col. 9, lines 60-63) Once again, Scheidt neither teaches nor suggests this aspect of the invention as recited in claim 1.

The Examiner admits that Schiedt does not teach or suggest all of Claim 1 and relies, instead upon He. The Examiner incorrectly asserts that He teaches or suggests, “receiving a request for an access permission security profile on behalf of a network user” as recited in Claim 1. To combine He with Schiedt would defeat the security aspect of schiedt requiring that the smart card, super card or other storage device must be used to hold a access permission security profile. (Id. ; Col 10, lines 28-31)

Even if it were proper to combine Scheidt with He, the result would not correspond to the limitations as recited in Claim 1.

First, He concerns controlling access to “network elements” and does not teach or suggest anything about requesting and receiving access permission security profiles. For example, He states,

Applicant :	Sweet et al.
Atty Dkt. :	00131-000100000
Issued :	n/a
Serial No. :	09/930,029
Filed :	08/14/2001
Page :	Page 20 of 26

“The central theme around security of network elements is how user access can be appropriately and effectively controlled for access to network elements.” (He, Col 5, lines 4-7) Network elements according to He are defined as “switches, signaling transfer points (STPs), data access points (DAPs), mainframe computers” but mentions nothing about access permission security profiles. If all goes well, He provides a “list of user credentials” necessary for subsequently “requesting access to network resources and information” but does not actually provide the ability to gain access to information, network elements or anything. (He, Col. 19, lines 32-35) Unlike an access permission security profile, the “list of user credentials” does not allow encryption or decryption of objects to occur.

Second, the Examiner has asserted that other elements of Claim 1 are obvious yet has provided no basis for these facts in Scheidt, He or even Shanton. For example, the Examiner states, “It would have been obvious to one of ordinary skill in the art at the time of applicant’s invention to incorporate the security system of He into the access control system of Schiedt in order to provide a mechanism by which a user can request creation and/or transmission of his or her security profile while ensuring that the user is authentic and authorized before sending such profile, such that the profile can be stored securely on a central server and accessed by the user from a variety of different devices.” (Office Action October 10, 2008, page 6, lines 9-16). With all due respect, the

Applicant : Sweet et al.  
Atty Dkt. : 00131-000100000  
Issued : n/a  
Serial No. : 09/930,029  
Filed : 08/14/2001  
Page : Page 21 of 26

Applicants can find no basis for such a detailed assertion in He or any other cited references.

Accordingly, Applicants would respectfully request the Examiner to withdraw the rejection if the source of these many limitations cannot be specifically identified.

It should also be appreciated that He very strongly teaches away from making any assumptions about network security unless they are expressly stated. Indeed, He stands for teaching away from making assumptions about complex security mechanisms as the Examiner has attempted. He reflects the general notion present at the time of the invention that security systems cannot rely upon an interconnect but instead should use hardware solutions that can be physically secured.

According to He,

The security of the interconnection network that enables users to access network resources and information in the network elements shall never be automatically assumed in any comprehensive solution to the protection of network resources and information. This is simply because it is impossible to physically secure each and every single link of the network.

(He, Col. 7, lines 41-45)

Based on what He does actually teach, it would reason that the Examiner cannot assume anything about network security (at the time of the invention thereof) when it involves a user accessing network resources and information. Moreover, He expresses that those skilled in the art at the time of this invention generally were concerned about ensuring physical security and definitely

Applicant : Sweet et al.  
Atty Dkt. : 00131-000100000  
Issued : n/a  
Serial No. : 09/930,029  
Filed : 08/14/2001  
Page : Page 22 of 26

not comfortable separating secure components from hardware. One skilled in the art at the time of He would most definitely not consider actually sending an access permission security profile to a user over a network as that would not be ensuring physical security.

It is also interesting to note that He also teaches away from ever taking any password information, authentication data off of a hardware solution such as the smart card used in Scheidt. Specifically, He also states,

In addition, no attempts to secure the interconnection network shall ever be pursued, for they are never be achievable except in very few isolated instances where the inter-connection network can be physically constrained in an area where physical security can be assured. This is definitely not the situation for many large enterprise networks.

(He, Col. 7, lines 49-54)

Based on this aspect of what He does teach, it would follow that access permission security profiles should never be separated from a smart card or transmitted over the Internet. Those skilled in the art at the time of He believed that no security was possible over a network unless physical security were somehow assured. Taking Scheidt in view of He, one skilled in the art would not attempt to send a access permission security profile over the Internet or other network since it would not be possible to assure physical security along the way. If anything, He teaches away from transmission of a security profile over a network.

Applicant : Sweet et al.  
Atty Dkt. : 00131-000100000  
Issued : n/a  
Serial No. : 09/930,029  
Filed : 08/14/2001  
Page : Page 23 of 26

Applicants respectfully request withdrawal of the rejection for Claim 1 because the Examiner has failed to show each and every element in Scheidt, He and/or Shanton.. Independent Claims 4,7, and 52 remain patentable for at least the reasons provided with respect to Claim 1. Dependant claims 2-3, 5-6 and 8-22, 53-66 while allowable on their own, also are in condition for allowance for at least the same reasons specified with respect to their corresponding independent parent claims. (“If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” *In re Fine*, 837 F.2d 1071, \_\_\_, 5 USPQ2d 1596 (Fed. Cir. 1988)).

The Examiner has also rejected 52-57 under 35 USC 103 over Scheidt. Applicants respectfully submit that Scheidt does not teach or suggest a system having “a plurality of member tokens for providing cryptographic capabilities to authenticated users of the decentralized public network” as recited in claim 52. As previously described, Scheidt describes using a smart card or super card to stored this information in advance (Col. 9, lines 39-54) rather than distribute over a network. The Examiner supports this assertion and admits that Scheidt does not teach or suggest a method or system for distributing cryptographic capabilities over a decentralized public network. Unfortunately, Schwartz also does not teach, suggest or even describe any details related to key

Applicant : Sweet et al.  
Atty Dkt. : 00131-000100000  
Issued : n/a  
Serial No. : 09/930,029  
Filed : 08/14/2001  
Page : Page 24 of 26

management or distributing cryptographic capabilities over a decentralized public network for at least the reasons previously described.

The Examiner also rejected Claims 21 and 22 under 35 USC 103 over Scheidt in view of He and Shanton and further in view of Win (US Pat 6,161,139) First, Claims 1,4, 7 and 52 remain patentable for at least the reasons specified previously as the Examiner has not established a prima facie case of obviousness. Consequently, dependant Claims 21 and 22 remain patentably distinct on their own as well as based upon their dependance on allowable independendant claims.

Further, the Examiner also rejected Claim 58 under 35 USC 103 over Scheidt in view of He and Shanton and further in view of Anderson (US Pat 5,805,674). First, Claims 1,4, 7 and 52 remain patentable for at least the reasons specified previously as the Examiner has not established a prima facie case of obviousness. Consequently, dependant Claim 58 remains patentably distinct on its own as well as based upon the dependance on allowable independent parent claims.

Applicant : Sweet et al.  
Atty Dkt. : 00131-000100000  
Issued : n/a  
Serial No. : 09/930,029  
Filed : 08/14/2001  
Page : Page 25 of 26

In summary, Applicants respectfully request withdrawal of the rejections for claims 1-22, 52-66 and allowance of the claims as amended.

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Applicant : Sweet et al.  
Atty Dkt. : 00131-000100000  
Issued : n/a  
Serial No. : 09/930,029  
Filed : 08/14/2001  
Page : Page 26 of 26

The Applicant has made a diligent effort to place the claims in condition for allowance, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Leland Wiesner, Applicants' Attorney at (650) 853-1113x 101 so that such issues may be resolved as expeditiously as possible.

For these reasons provided above, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

March 10, 2009  
Date

  
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